

luteum or else *D. luteum* can coexist with current land uses, and therefore critical habitat designation in those areas is unnecessary.

Our Response: Maps of grazing impact, habitat quality, and habitat type prepared as part of an "Overview Summary" for a planned golf ranch in the area in 1992 show extensive grazing impacts (Marin Coast Associates 1992). However, the maps also show areas with relatively high quality habitat, and the L2 and L3 *Delphinium luteum* occurrences fall within these areas. Hence, *D. luteum* apparently can coexist with sheep grazing in areas which are not heavily grazed.

The Act defines critical habitat as areas on which are found physical and biological features essential to the conservation of the species and which may require special management considerations or protection. We believe that the occurrences in Units L2 and L3 are areas with features essential to the conservation of the species, and we also believe they may need special management considerations to survive despite having persisted to this point, because they remain subject to the various threats as described above. While critical habitat designation imposes no special management requirements on private landowners, it does require Federal agencies to take the species' habitat needs into account whenever their actions might adversely modify the habitat. It also alerts the public to the importance of the area for the species, thereby making it easier for landowners to obtain support or compensation from public or private sources for special management actions they are willing to take.

(8) **Comment:** A commenter stated that Units L2 and L3 need ground truthing to see if *Delphinium luteum* plants are still there.

Our Response: Based on consideration of the best available information, we have determined that Units L2 and L3 meet the definition of critical habitat. In general, more ground truthing would be helpful, but we are limited by our inability to enter private property without permission. In the case of Units L2 and L3, we have requested permission from one owner but have not received an answer. Ground truthing would be useful to ascertain further the value of the habitat for *Delphinium luteum*. Plants may be missed if they are not mature and flowering, and a seed bank may be present even when mature plants are not.

Issue 3: Legal and Procedural Comments

(9) **Comment:** A commenter recommended that we provide more

accurate maps of unit boundaries and more background information on field reconnaissance work.

Our Response: The maps we publish are limited by the printing capabilities of the **Federal Register** and the Code of Federal Regulations. We can provide more accurate maps on request, however, as well as answer questions regarding field reconnaissance of particular areas. We also commonly publish maps and information on our Web page, <http://sacramento.fws.gov>. Because of private property considerations, our field reconnaissance was limited to habitat inspections made from public roads for Units B1, B2, L1, and L4, and at some other historically documented sites for *Delphinium luteum* which had not been confirmed since the early 1980s.

(10) **Comment:** A commenter found the comment period too short and asked us to extend it.

Our Response: As detailed above in the Previous Federal Action section, the initial comment period for the proposed rule lasted 60 days, and was followed by a second 30-day comment period to allow comment on both the proposed rule and the draft economic analysis. These time periods are within the requirements of our regulations, and we believe they allow a reasonable time for comment. We were unable to reopen the comment period a third time because we are under a court imposed deadline to reach a final critical habitat determination by March 10, 2003.

(11) **Comment:** One commenter argued that the Act requires us to make a draft economic analysis available prior to proposing critical habitat.

Our Response: Section 4(b)(2) of the Act requires us to "designate critical habitat * * * after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat." We interpret this to mean the economic analysis must precede the final critical habitat designation, not the proposed designation. It would not be possible for us to weigh the economic impacts of a designation which we had not yet proposed, since the projected costs of critical habitat depend on the location and size of the areas which may be designated. We made the draft economic analysis available for review, and accepted comments on it, from November 1 to December 2, 2002.

(12) **Comment:** A commenter pointed out that we had not provided a map showing the locations of *Delphinium bakeri* and *D. luteum* occurrences, or the number of plants and date observed for each occurrence.

Our Response: We have access to much of this information through a use agreement with the CNDDDB database, compiled and maintained by the CDFG. We do not believe it would be prudent for us to publish the exact locations of these plants because we might thereby facilitate collection or vandalism of them. We can provide more accurate maps on request, however, as well as answer questions regarding field reconnaissance of particular areas.

(13) **Comment:** A commenter argued that the California Environmental Quality Act (CEQA) requires us to complete an Environmental Impact Report for this critical habitat designation because it could result in a change in agricultural use.

Our Response: CEQA only applies to discretionary projects of State or local public agencies (Cal. Pub. Res. Code §§ 21063, 21080(a)).

(14) **Comment:** A commenter who had difficulty accessing the economic analysis on our website claimed this constituted a failure to make the information readily accessible, in violation of the Federal Data Quality Act. The commenter clarified in a separate e-mail that he was referring to the Service Information Quality Guidelines.

Our Response: The Information Quality Guidelines (Guidelines) (67 FR 64407) concern the accuracy of information disseminated by our agency. They are not violated by a failure of our ability to disseminate the information over the Internet on a particular day. Additionally, the Guidelines are intended to improve the internal management of information quality and do not create an enforceable legal right or benefit (67 FR 64407). The notice of availability of the draft economic analysis which we published in the **Federal Register** (67 FR 22404) provided contact information for personnel from our office who could have provided assistance.

Issue 4: Comments on the Economic Analysis

(15) **Comment:** A commenter stated that critical habitat designation causes a loss in property values which the economic analysis fails to take into account. The commenter suggested that the analysis might have quantified some of the lost land value by totaling the number of acres of grazing land affected, since such lands have a specific grazing value per acre. The commenter also stated that the economic analysis did not attempt to quantify "the most basic economic effects a critical habitat designation will cause."